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Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Lithuania, Luxembourg, Netherlands, Portugal, Romania, Sweden and United Kingdom of Great Britain and Northern Ireland: draft resolution

Situation of human rights in the Democratic Republic of the Congo

The General Assembly,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and other applicable human rights instruments,

Mindful that the Democratic Republic of the Congo is a party to the International Covenant on Civil and Political Rights,[2] the International Covenant on Economic, Social and Cultural Rights,[2] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[3] the Convention on the Elimination of All Forms of Discrimination against Women,[4] the Geneva Conventions of 12 August 1949 for the protection of victims of war,[5] the International Convention on the Elimination of All Forms of Racial Discrimination[6] and the Convention on the Rights of the Child,[7] as well as to the African Charter on Human and Peoples' Rights,[8]

Recalling its previous resolutions on this subject, including the most recent, resolution 54/179 of 17 December 1999, taking note of Commission on Human

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.
[3] Resolution 39/46, annex.
[4] Resolution 34/180, annex.
[5] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.
[6] Resolution 2106 A (XX), annex.
[7] Resolution 44/25, annex.
[8] United Nations, *Treaty Series*, vol. 1520, No. 26363.

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Rights resolution 2000/15 of 18 April 2000[9] and Security Council resolution 1304 (2000) of 16 June 2000, and mindful of previous resolutions and statements of the Security Council on the subject,

Mindful of the Ceasefire Agreement,[10] which was signed at Lusaka on 10 July 1999, and the Kampala disengagement plan of 8 April 2000,

Concerned at all violations of human rights and international humanitarian law in the territory of the Democratic Republic of the Congo by all parties to the conflict, including acts of and incitement to ethnic hatred and violence,

Recognizing that the promotion and protection of human rights for all are essential for achieving stability and security in the region and will contribute to the creation of the environment necessary for cooperation among States in the region,

Taking into account the regional dimension of the human rights issues, and stressing the importance of technical cooperation for the promotion and protection of human rights,

Recalling the decision of the Commission on Human Rights to request the Special Rapporteurs on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances to carry out a joint mission to the Democratic Republic of the Congo, and hoping that the mission will be able to start its work as soon as possible, with the cooperation of the authorities concerned,

Encouraging the Government of the Democratic Republic of the Congo to fulfil its earlier commitments, including to the United Nations High Commissioner for Human Rights, to restore and reform the judicial system, in accordance with the relevant international conventions, and noting, in this regard, the Government's declared intention to progressively abolish the death penalty and to put an end to the trying of civilians by the Military Court,

1. *Welcomes*:

(a) The report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo;[11]

(b) The visit the Special Rapporteur undertook to the country at the invitation of the Government and the cooperation of the Government and of all Congolese parties to the Ceasefire Agreement[10] in this regard;

(c) The visit made to the country by the High Commissioner for Human Rights from 30 September to 2 October 2000;

(d) The activities of the Human Rights Field Office in the Democratic Republic of the Congo, and encourages the Government to continue to work closely with it;

(e) The efforts of the Ministry of Human Rights of the Democratic Republic of the Congo to improve the human rights situation in the country, and, in particular,

[9] See *Official Records of the Economic and Social Council, 1999, Supplement No. 3* (E/2000/23), chap. II, sect. A.

[10] S/1999/815, annex.

[11] A/55/403.

the adoption in December 1999, in concert with non-governmental organizations, of the National Action Plan on the Promotion and Protection of Human Rights;

(f) The general amnesty ordered by President Kabila on 19 February 2000 as a timely and significant step towards reconciliation and towards preparation for the inter-Congolese dialogue called for in the Ceasefire Agreement, but deplores the fact that many other political prisoners continue to be detained and the arrests made since that date;

(g) The commitment by the Government of the Democratic Republic of the Congo to cooperate with the United Nations agencies and non-governmental organizations in ensuring the demobilization and reintegration of child soldiers, and the holding in Kinshasa, in December 1999, in cooperation with the United Nations Children's Fund, of the Forum on the Demobilization of Child Soldiers and the Protection of Human Rights, measures of demobilization of children undertaken by the Government and by the Congolese Rally for Democracy, and encourages other parties to the conflict to do the same;

(h) The repatriation carried out under the auspices of the International Committee of the Red Cross in the Democratic Republic of the Congo, in conformity with international humanitarian law, of persons at risk because of their ethnic origin, but regrets, however, that the Government was apparently unable to provide adequate protection in the first place;

(i) The release of prisoners of war, and calls for the acceleration of exchanges of prisoners;

2. *Expresses its concern at*:

(a) The adverse impact of the conflict on the situation of human rights and its severe consequences for the security and well-being of the civilian population throughout the territory of the Democratic Republic of the Congo;

(b) The continuing violations of the Ceasefire Agreement and the continued use of hate speech;

(c) The preoccupying situation of human rights in the Democratic Republic of the Congo, in particular in the eastern part of the country, and the continuing violations of human rights and international humanitarian law committed throughout the territory of the Democratic Republic of the Congo, often with impunity, and, with that in view, condemns:

(i) The perpetration of massacres of civilians in the course of the conflict, which constitutes an inadequate and disproportionate response to attacks, including recently in Lisenda-8 road, Katogata, Kamanyola, Lurbarika, Luberezi, Ngenge, Kalehe, Kilambo, Cidaho, Uvira, Shabunda and Lusenda-Lumumba;

(ii) The fighting in Kisangani between Ugandan and Rwandan forces, most recently in May and June 2000, which resulted in many civilian victims;

(iii) The conflicts between the Hema and Lendu ethnic groups in the region of Ituri under Ugandan occupation, where thousands of Congolese have already been killed;

(iv) The occurrence of cases of summary and arbitrary execution, disappearance, torture, beating, harassment, arbitrary arrest and detention without trial, including of journalists, opposition politicians and human rights defenders, as well as, in the eastern part of the country in particular, reprisals against people who have cooperated with the United Nations mechanisms, reports of sexual violence against women and children and the continuing recruitment and use of child soldiers;

(v) The trying of civilians and the imposition of the death penalty by the Military Court;

(d) The excessive accumulation and spread of small arms and light weapons and the illicit distribution, circulation and trafficking of arms in the region and their negative impact on human rights;

(e) Breaches of the freedom of expression, opinion, association and assembly, in the whole territory of the Democratic Republic of the Congo, and reports of the total absence of those freedoms in the eastern part of the country;

(f) The acts of intimidation against representatives of churches in the whole Congolese territory, as well as the killings they have been victim of in the eastern part of the country;

(g) The severe insecurity, which is minimizing the ability of humanitarian organizations to secure access to affected populations;

(h) Reports of the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of the Congo;

3. *Urges* all parties to the conflict in the Democratic Republic of the Congo:

(a) To implement fully the provisions of the Ceasefire Agreement and to facilitate the re-establishment of the authority of the Government of the Democratic Republic of the Congo throughout the territory, and stresses, in the context of a lasting peaceful settlement, the need for the engagement of the Congolese in an all-inclusive process of political dialogue, with a view to achieving national reconciliation and the holding of democratic, free, transparent and fair elections;

(b) To cease all military activity in the Democratic Republic of the Congo, which is in breach of the ceasefire provided for in the Ceasefire Agreement and the Kampala disengagement plan;

(c) To protect human rights and to respect international humanitarian law, in particular as applicable to them, the Geneva Conventions of 12 August 1949 for the protection of victims of war[5] and the Additional Protocols thereto, of 1977,[12] the Hague Convention respecting the Laws and Customs of War on Land of 18 October 1907,[13] the Convention on the Prevention and Punishment of the Crime of Genocide[14] and other relevant provisions of international humanitarian, human rights and refugee law, and in particular to respect the rights of women and children and to ensure the safety of all civilians, including refugees and internally displaced persons within the territory of that country, regardless of their origin;

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[12] United Nations, *Treaty Series*, vol. 1125, Nos. 17512 and 17513.

[13] See Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

[14] Resolution 260 A (III).

(d) To cease all forms of repression against people exercising their fundamental freedoms;

(e) To establish the conditions necessary for the safe and speedy deployment of the United Nations Mission in the Democratic Republic of the Congo;

(f) To ensure the safety, security and freedom of movement of United Nations and associated personnel and humanitarian personnel within the Democratic Republic of the Congo, and in this regard, to ensure safe and unhindered access of humanitarian personnel to all affected populations throughout the territory of the Democratic Republic of the Congo;

(g) To put an immediate end to the use of child soldiers, which is in contravention of international human rights standards, and to demobilize those children unduly recruited;

(h) To define and implement all necessary measures to create conditions conducive to the voluntary return, in safety and dignity, of all refugees and displaced persons and to ensure their fair and lawful treatment;

4. *Calls upon* the Government of the Democratic Republic of the Congo:

(a) To comply fully with its obligations under international human rights law and to promote and protect human rights and fundamental freedoms throughout its entire territory;

(b) To fulfil its responsibility to ensure the full protection of the human rights of the population in its territory, as well as to take a leading part in efforts to prevent conditions that might lead to further flows of internally displaced persons and refugees within the Democratic Republic of the Congo and across its border;

(c) To fulfil its commitment to reform and restore the judicial system, and, in particular, to reform military justice, and to stop using it to try civilians, in conformity with the provisions of the International Covenant on Civil and Political Rights;[2]

(d) To ensure full respect for freedom of opinion and expression, freedom of the press in relation to all types of mass media, as well as freedom of association and assembly, in particular in favour of human rights organizations;

(e) To implement fully its commitment to the democratization process, in particular the national dialogue, as stipulated in the Ceasefire Agreement, and to create, in this context, conditions that would allow for a democratization process that is genuine and all-inclusive and that fully reflects the aspirations of all people in the country, including by lifting restrictions on political parties and ensuring political pluralism, in order, eventually, to lead the way for the holding of democratic, free and fair elections;

(f) To put an end to impunity and to fulfil its responsibility to ensure that those responsible for human rights violations and grave breaches of international humanitarian law are brought to justice;

(g) To cooperate fully with the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed

in the Territory of Neighbouring States between 1 January and 31 December 1994 in ensuring that all responsible for the crime of genocide, crimes against humanity and other grave violations of human rights are brought to justice in accordance with international principles of due process;

(h) To work closely and strengthen further its cooperation with the Human Rights Field Office in the Democratic Republic of the Congo;

(i) To implement fully its commitment to cooperate with United Nations agencies and non-governmental organizations in ensuring the demobilization, rehabilitation and reintegration of child soldiers;

5. *Decides* to continue to examine the situation of human rights in the Democratic Republic of the Congo, and requests the Special Rapporteur to report to the General Assembly at its fifty-sixth session.